

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 64th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Gerald (Jerry) Bennett, on February 19, 2015 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Gerald (Jerry) Bennett, Chair (R)
Rep. Alan Doane, Vice Chair (R)
Rep. Seth Berglee (R)
Rep. Clayton Fiscus (R)
Rep. Stephanie Hess (R)
Rep. Kathy Kelker (D)
Rep. Sarah Laszloffy (R)
Rep. Theresa Manzella (R)
Rep. Nate McConnell (D)
Rep. G. Bruce Meyers (R)
Rep. Matthew Monforton (R)
Rep. Zac Perry (D)
Rep. Andrew Person (D)
Rep. Randall Pinocci (R)
Rep. Keith Regier (R)
Rep. Kirk Wagoner (R)

Members Excused: Rep. Virginia Court, Vice Chair (D)
Rep. Jennifer Eck (D)
Rep. Ellie Boldman Hill (D)
Rep. Margaret (Margie) MacDonald (D)
Rep. Carolyn Pease-Lopez (D)

Members Absent: None

Staff Present: McKenzie Chambers, Committee Secretary
Helen Thigpen, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 443, 2/16/2015; HB 444, 2/16/2015; HB 445, 2/16/2015; HB 490, 2/16/2015; HB 516, 2/16/2015; HB 518, 2/16/2015; HB 530, 2/16/2015

Executive Action: HB 320, HB 410, HB 457, HB 535

100:01:16 Chair J. Bennett

HEARING ON HB 518

Opening Statement by Sponsor:

00:02:05 Rep. Ron Ehli (R), HD 86, opened the hearing on HB 518, Revise laws related to search warrants.

Proponents' Testimony:

00:04:01 Bill Fulbright, County Attorney, Ravalli County

00:09:45 Jim Smith, Montana Sheriffs and Peace Officers Association (MSPOA)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:10:42 Rep. Meyers

00:11:12 Jim Smith, MSPOA

00:11:57 Rep. Manzella

00:12:26 Rep. MacDonald joined the meeting.

00:12:33 Bill Fulbright, Ravalli County

00:15:45 Rep. Kelker

00:15:54 Rep. Hill and Rep. Pease-Lopez joined the meeting.

00:16:16 Bill Fulbright, Ravalli County

00:17:11 Rep. McConnell

00:17:51 Rep. Eck joined the meeting.

00:17:56 Bill Fulbright, Ravalli County

00:19:37 Rep. McConnell

00:20:19 Bill Fulbright, Ravalli County

00:20:51 Rep. McConnell

00:21:06 Rep. Ehli

00:21:11 Rep. Doane

00:21:42 Bill Fulbright, Ravalli County

00:22:04 Rep. Manzella

00:22:32 Bill Fulbright, Ravalli County

Closing by Sponsor:

00:23:22 Rep. Ehli

HEARING ON HB 490

Opening Statement by Sponsor:

00:24:33 Rep. Jennifer Eck (D), HD 79, opened the hearing on HB 490, Providing restrictions for the use of long-term solitary confinement.

Proponents' Testimony:

00:27:50 Niki Zupanic, American Civil Liberties Union (ACLU) of Montana and representing NAMI Montana

[EXHIBIT\(juh38a01\)](#)

[EXHIBIT\(juh38a02\)](#)

[EXHIBIT\(juh38a03\)](#)

00:33:15 Patti Jacques, Self

00:37:26 Beth Brenneman, Disability Rights Montana (DRM)

00:39:15 Rep. Court joined the meeting.

Opponents' Testimony:

00:39:34 Leroy Kirkegard, Warden, Montana State Prison (MSP)

00:45:55 Cindy McKenzie, Division Administrator, Youth Services Division, Department of Corrections (DOC)

Informational Testimony: None

Questions from Committee Members and Responses:

00:51:33 Rep. MacDonald

00:52:14 Niki Zupanic, ACLU of Montana and NAMI Montana

00:54:22 Rep. Kelker

00:54:52 Leroy Kirkegard, (MSP)

00:55:19 Rep. Kelker

00:55:52 Leroy Kirkegard, (MSP)

00:57:33 Rep. Pease-Lopez

00:57:56 Joan Daly, Warden, Montana Women's Prison (MWP)

00:58:00 Rep. Pease-Lopez

00:58:15 Joan Daly, (MWP)

00:58:47 Rep. Pease-Lopez

00:59:12 Joan Daly, (MWP)

00:59:56 Rep. Pease-Lopez

01:00:17 Joan Daly, (MWP)

01:00:51 Rep. McConnell

01:01:39 Rep. Eck

01:03:26 Rep. Hess

01:03:47 Cindy McKenzie, DOC

[EXHIBIT\(juh38a04\)](#)

[EXHIBIT\(juh38a05\)](#)

Closing by Sponsor:

01:04:08 Rep. Eck

01:08:07 Chair J. Bennett

HEARING ON HB 445**Opening Statement by Sponsor:**

01:09:31 Rep. Daniel Zolnikov (R), HD 45, opened the hearing on HB 445, Requiring search warrant for gov access to electronic devices.

EXHIBIT(juh38a06)

Proponents' Testimony:

01:13:11 Gary Marbut, Montana Shooting Sports Association (MSSA)
01:14:56 Rep. Schwaderer, HD 14
01:14:55 Chair J. Bennett left the meeting and Rep. Doane assumed the role of Chair.
01:15:29 Niki Zupanic, ACLU of Montana
01:17:14 Doug Nulle, Self

Opponents' Testimony: None

Informational Testimony:

01:17:54 Paulette Kohman, Special Assistant Attorney General, Office of Legal Affairs, Department of Health and Human Services (DPHHS)

Questions from Committee Members and Responses:

01:19:04 Rep. Hill
01:19:46 Rep. J. Bennett rejoined the meeting and resumed the role of Chair.
01:20:17 Rep. Zolnikov
01:20:52 Rep. Hill
01:21:00 Rep. Zolnikov
01:21:02 Rep. Regier
01:21:19 Rep. Zolnikov
01:22:10 Rep. Regier
01:22:24 Rep. Zolnikov
01:22:52 Rep. Regier
01:23:02 Rep. Zolnikov
01:23:27 Rep. Regier
01:23:38 Rep. Zolnikov
01:24:32 Rep. Regier
01:24:50 Rep. Zolnikov
01:25:14 Rep. Kelker
01:26:05 Rep. Zolnikov
01:26:36 Rep. Kelker
01:26:58 Rep. Zolnikov
01:27:58 Rep. McConnell
01:28:29 Rep. Zolnikov
01:29:16 Rep. McConnell
01:29:56 Rep. Zolnikov
01:31:14 Rep. Kelker
01:31:47 Helen Thigpen, Legislative Services Division (LSD)
01:32:01 Rep. Person
01:32:34 Rep. Zolnikov
01:33:33 Rep. Court
01:34:07 Rep. Zolnikov

01:34:35 Rep. Court
 01:34:50 Rep. Zolnikov
 01:35:48 Rep. Regier
 01:36:15 Rep. Zolnikov

Closing by Sponsor:

01:36:24 Rep. Zolnikov

HEARING ON HB 444

Opening Statement by Sponsor:

01:36:53 Daniel Zolnikov (R), HD 45, opened the hearing on HB 444, Generally revising laws related to electronic communications.

[EXHIBIT\(juh38a07\)](#)

[EXHIBIT\(juh38a08\)](#)

Proponents' Testimony:

01:43:50 Gary Marbut, Montana Shooting Sports Association (MSSA)
 01:45:36 Niki Zupanic, ACLU of Montana
 01:48:11 Doug Nulle, Self
 01:48:32 Wes Krawczyk, Self

Opponents' Testimony:

01:49:31 Ole Olson, Assistant Attorney General, Prosecution Services Bureau, Legal Services Division, Montana Department of Justice (DOJ)
 01:51:39 Mark Murphy, Montana County Attorneys Association (MCAA)
 01:58:58 Spook Stang, Motor Carriers of Montana (MCM)

Informational Testimony:

02:00:03 Paulette Kohman, Special Assistant Attorney General, Office of Legal Affairs, Department of Health and Human Services (DPHHS)
 02:01:24 Duane Williams, Administrator, Motor Carrier Services Division, Montana Department of Transportation (MDT)

Questions from Committee Members and Responses:

02:02:00 Rep. Wagoner
 02:02:47 Rep. Zolnikov
 02:03:04 Rep. Wagoner
 02:03:44 Rep. Zolnikov
 02:04:36 Rep. McConnell
 02:04:58 Rep. Zolnikov
[EXHIBIT\(juh38a09\)](#)
 02:06:42 Rep. McConnell
 02:07:41 Rep. Zolnikov
 02:08:11 Niki Zupanic, ACLU of Montana
 02:08:49 Rep. McConnell
 02:09:03 Niki Zupanic, ACLU of Montana

02:10:25 Rep. Fiscus
02:11:07 Rep. Zolnikov
02:12:05 Rep. Person
02:12:31 Ole Olson, DOJ

Closing by Sponsor:

02:13:26 Rep. Zolnikov

HEARING ON HB 443

Opening Statement by Sponsor:

02:15:23 Rep. Daniel Zolnikov (R), HD 45, opened the hearing on HB 443, Generally revise privacy laws.

[EXHIBIT\(juh38a10\)](#)

Proponents' Testimony:

02:20:23 Rep. Schwaderer, HD 14
02:22:17 Niki Zupanic, ACLU of Montana

Opponents' Testimony:

02:25:13 Ole Olson, Assistant Attorney General, Prosecution Services Bureau, Legal Services Division, Montana Department of Justice (DOJ)

Informational Testimony:

02:26:40 Paulette Kohman, Special Assistant Attorney General, Office of Legal Affairs, Department of Health and Human Services (DPHHS)
02:27:58 Duane Williams, Administrator, Motor Carrier Services Division, Montana Department of Transportation (MDT)

Questions from Committee Members and Responses:

02:28:47 Rep. Kelker
02:29:42 Ole Olson, DOJ

Closing by Sponsor:

02:31:04 Rep. Zolnikov

HEARING ON HB 530

Opening Statement by Sponsor:

02:33:31 Rep. Ellie Boldman Hill (D), HD 90, opened the hearing on HB 530, Generally revise criminal law for restoring rights to possess firearms.

Proponents' Testimony:

02:43:25 Niki Zupanic, ACLU of Montana
02:45:38 Patti Jacques, Self
02:47:52 Mark Murphy, Montana County Attorneys Association (MCAA)

Opponents' Testimony:

02:48:36 Gary Marbut, Montana Shooting Sports Association (MSSA)

[**EXHIBIT\(juh38a11\)**](#)

02:56:13 Doug Nulle, Self

Informational Testimony:

02:58:37 Matt Kuntz, NAMI Montana

Questions from Committee Members and Responses:

02:59:31 Rep. Wagoner

02:59:50 Rep. Hill

03:00:10 Rep. Kelker

03:00:36 Rep. Hill

03:02:09 Rep. Kelker

03:02:23 Rep. Hill

03:03:27 Rep. Berglee

03:03:40 Rep. Hill

03:03:41 Rep. Berglee

03:03:57 Rep. Hill

03:04:23 Rep. Berglee

03:04:39 Rep. Hill

03:05:18 Rep. Berglee

03:05:31 Rep. Hill

03:06:05 Mary "Marty" Phippen, Montana Association of Clerks of District Court

03:07:10 Chair J. Bennett

03:07:21 Rep. Wagoner

03:08:40 Rep. Hill

03:10:08 Chair J. Bennett

03:10:41 Matt Kuntz, NAMI Montana

Closing by Sponsor:

03:12:45 Rep. Hill

03:13:50 Chair J. Bennett

HEARING ON HB 516

Opening Statement by Sponsor:

03:14:19 Rep. Margaret (Margie) MacDonald (D), HD 51, opened the hearing on HB 516, Revise petition for DNA testing laws.

Proponents' Testimony:

03:18:08 Keegan Flaherty, Montana Innocence Project (MTIP)

[**EXHIBIT\(juh38a12\)**](#)

03:21:31 Michelle Feldman, National Innocence Project

03:25:44 Abigail St. Lawrence, Montana Innocence Project (MTIP) and representing former Senator Larry Jent

[**EXHIBIT\(juh38a13\)**](#)

03:27:04 Kelsen Young, Montana Coalition Against Domestic & Sexual Violence
(MCADSV)
03:30:09 Niki Zupanic, ACLU of Montana
03:30:18 Patti Jaques, Self

Opponents' Testimony:

03:31:01 Mark Murphy, Self

Informational Testimony: None**Questions from Committee Members and Responses:**

03:36:53 Rep. McConnell
03:38:15 Mark Murphy, Self
03:38:56 Rep. McConnell
03:39:20 Mark Murphy, Self
03:40:54 Rep. Wagoner
03:41:09 Helen Thigpen, LSD
03:41:21 Rep. Pease-Lopez
03:42:29 Michelle Feldman, National Innocence Project

Closing by Sponsor:

03:44:19 Rep. MacDonald

03:45:20 Chair J. Bennett

03:47:09 Recessed
04:13:03 Reconvened

04:13:02 Rep. Meyers absent.
04:13:03 Chair J. Bennett

EXECUTIVE ACTION ON HB 320

04:13:45 **Motion:** Rep. Doane moved that **HB 320 DO PASS.**

Discussion:

04:13:52 Helen Thigpen, LSD
[EXHIBIT\(juh38a14\)](#)

04:14:29 **Motion:** Rep. Doane moved that **HB 320 BE AMENDED.**

Discussion:

04:14:40 Helen Thigpen, LSD

04:16:18 **Vote:** Motion carried unanimously by voice vote. Rep. Meyers voted by proxy.

04:16:31 **Motion:** Rep. Doane moved that **HB 320 DO PASS AS AMENDED.**

Discussion:

04:16:38 Rep. Kelker

04:17:41 **Vote:** Motion carried 12-9 by roll call vote with Rep. Court, Rep. Eck, Rep. Hill, Rep. Kelker, Rep. MacDonald, Rep. McConnell, Rep. Pease-Lopez, Rep. Perry and Rep. Person voting no. Rep. Meyers voted by proxy.

EXECUTIVE ACTION ON HB 410

04:18:30 **Motion:** Rep. Doane moved that **HB 410 DO PASS.**

Discussion:

04:18:36 Helen Thigpen, LSD

[**EXHIBIT\(juh38a15\)**](#)

[**EXHIBIT\(juh38a16\)**](#)

[**EXHIBIT\(juh38a17\)**](#)

04:19:25 **Motion:** Rep. Regier moved that **HB 410 BE AMENDED.**

Discussion:

04:19:41 Rep. Regier

04:21:16 Rep. Wagoner

04:21:40 Helen Thigpen, LSD

04:22:14 Rep. McConnell

04:22:28 Chair J. Bennett

04:22:46 Rep. Wagoner

04:23:01 Chair J. Bennett

04:23:07 Helen Thigpen, LSD

04:24:42 Rep. Wagoner

04:24:48 Rep. Court

04:26:21 Rep. McConnell

04:27:27 Rep. Regier

04:28:24 Rep. MacDonald

04:29:14 Rep. Regier

04:29:28 **Vote:** Motion carried 12-9 by roll call vote with Rep. Court, Rep. Eck, Rep. Hill, Rep. Kelker, Rep. MacDonald, Rep. McConnell, Rep. Pease-Lopez, Rep. Perry and Rep. Person voting no. Rep. Meyers voted by proxy.

04:30:29 **Motion:** Rep. Doane moved that **HB 410 BE AMENDED.**

04:30:52 Without objection, Rep. Doane withdrew the **BE AMENDED** motion.

04:30:58 **Motion:** Rep. Doane moved that **HB 410 DO PASS AS AMENDED.**

Discussion:

04:31:06 Rep. Regier

04:31:28 **Motion:** Rep. McConnell moved that **HB 410 BE AMENDED.**

Discussion:

04:31:47 Chair J. Bennett
04:31:59 Rep. McConnell
04:32:04 Chair J. Bennett
04:32:12 Rep. Regier
04:32:31 Rep. McConnell
04:32:37 Helen Thigpen, LSD
04:34:34 Rep. McConnell
04:35:10 Helen Thigpen, LSD

04:35:59 **Vote:** Motion carried 18-3 by roll call vote with Rep. Hess, Rep. McConnell and Rep. Person voting no. Rep. Meyers voted by proxy.

04:36:47 **Motion/Vote:** Rep. Doane moved that **HB 410 DO PASS AS AMENDED**.
Motion carried 11-10 by roll call vote with Rep. J. Bennett, Rep. Court, Rep. Eck, Rep. Hess, Rep. Hill, Rep. MacDonald, Rep. McConnell, Rep. Pease-Lopez, Rep. Perry and Rep. Person voting no. Rep. Meyers voted by proxy.

EXECUTIVE ACTION ON HB 457

04:38:23 **Motion:** Rep. Doane moved that **HB 457 DO PASS**.

Discussion:

04:38:31 Helen Thigpen, LSD
04:38:59 Rep. Person
04:39:23 Rep. Regier left the meeting.
04:39:56 Rep. Monforton

04:41:05 **Vote:** Motion carried 12-9 by roll call vote with Rep. Court, Rep. Eck, Rep. Hill, Rep. Kelker, Rep. MacDonald, Rep. McConnell, Rep. Pease-Lopez, Rep. Perry and Rep. Person voting no. Rep. Meyers and Rep. Regier voted by proxy.
Note: HB 457 awaiting the arrival of fiscal note in Committee. Bill will remain in Committee until further notice.

04:41:57 Chair J. Bennett

EXECUTIVE ACTION ON HB 535

04:42:14 **Motion:** Rep. Doane moved that **HB 535 DO PASS**.

Discussion:

04:42:21 Helen Thigpen, LSD
04:42:36 Rep. Wagoner
04:43:09 Rep. Person
04:44:07 Rep. MacDonald

04:44:51 **Vote:** Motion carried 11-10 by roll call vote with Rep. J. Bennett, Rep. Court, Rep. Eck, Rep. Hill, Rep. Kelker, Rep. MacDonald, Rep. McConnell, Rep. Pease-Lopez, Rep. Perry and Rep. Person voting no. Rep. Meyers and Rep. Regier voted by proxy.
Note: HB 535 awaiting the arrival of fiscal note in Committee. Bill will remain in Committee until further notice.

04:45:53 Chair J. Bennett

ADJOURNMENT

Adjournment: 04:46:35

McKenzie Chambers, Secretary

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Additional Documents:

EXHIBIT([juh38aad.pdf](#))